

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS AND TRANSPORTATION

Call to Order: By **CHAIRMAN ARNIE MOHL**, on January 21, 1999 at 3:00 P.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. Arnie Mohl, Chairman (R)
Sen. Ric Holden, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Bob DePratu (R)
Sen. John Hertel (R)
Sen. Reiny Jabs (R)
Sen. Greg Jergeson (D)
Sen. Glenn Roush (D)
Sen. Debbie Shea (D)
Sen. Spook Stang (D)
Sen. Daryl Toews (R)

Members Excused: None.

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Phoebe Olson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 71, 1/21/1999; SB 89,
1/21/1999; SB 133, 1/21/1999
Executive Action: SB 71; SB 35; SB 78; SB 94

HEARING ON SB 71

Sponsor: SENATOR LINDA NELSON, SD 49, Medicine Lake

Proponents: John Flink, MHA
Kip Smith, Montana Primary Care Association
Beda Lovitt, Montana Medical Association
Brenda Nordlund, Department of Justice

Opponents: None

Opening Statement by Sponsor:

SENATOR LINDA NELSON, SD 49, Medicine Lake, said SB 71 is a bill for the rural border towns in Montana. The bill will exempt the vehicles owned by health care professionals who practice in rural medically under served areas for licensing their vehicles in Montana. The bill shouldn't affect many people or be a big impact on the county revenue.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 3:06}

John Flink, MHA, entered a letter from Walter Busch, **EXHIBIT**(his16a01). The association supports SB 71.

Kip Smith, Montana Primary Care Association, said the association supports SB 71. This is a big issue for small rural communities in under served areas particularly those along the border. The fiscal notes indicate there is insignificant in terms to the dollars and cents to the state.

Beda Lovitt, Montana Medical Association, supports SB 71.

Brenda Nordlund, Department of Justice, concurred the Department of Justice is willing to pay the expenses that are associated with producing the forms and providing the decals. This would take a slight bit of reprogramming.

Opponents' Testimony: None.

{Tape : 1; Side : A; Approx. Time Counter : 3:10}

Questions from Committee Members and Responses:

SENATOR JERGESON asked where will the decal be located. **Brenda Nordlund** responded the decal will be in the lower right-hand corner. It will differentiate from foreign registration decals that are in the lower left hand corner. **SENATOR JERGESON** asked if the sheriff would know to check the lower right-hand corner of the windshield or will it mean he would have to get out of the car. **Brenda Nordlund** commented the sheriff may have to get out

of the car and walk around depending on how the car is situated but it would be part of the regular training procedures for the highway patrol and law enforcement. The department would notify everyone of the change in the law. **SENATOR JERGESON** asked if a sheriff wrote a ticket and didn't notice the decal would the decal holder be able to get the ticket removed. **Brenda Nordlund** replied yes that would be proof of exemption.

SENATOR JABS asked if the situation is the same in the western and southern part of the state. He asked if this was going to be a big change. **SENATOR NELSON** replied the fiscal note didn't show a big change.

SENATOR HERTEL asked if she had any idea how this is going to affect her county fiscally. **SENATOR NELSON** replied Plentywood currently has one RN so it will not be a big impact.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 3:12}

SENATOR NELSON stated she would appreciate a favorable vote on SB 71.

HEARING ON SB 89

Sponsor: **SENATOR STANG, SD 36, St. Regis,**

Proponents: **Mathew Cohn, Department of Commerce**
Marv Dye, Department of Transportation
Carl Kochman, Tourism Advisory Council
Amy Sullivan, Montana Tourism Coalition
Carl Schweitzer, Bozeman/Kalispell Chamber
Stuart Doggett, Montana Inn Keepers Association

Opponents: **None**

Opening Statement by Sponsor:

SENATOR BERRY STANG, SD 36, St. Regis said **SB 89** was a bill that required the Department of Commerce to design and the Department of Transportation to erect signs identifying visitor information centers. He maintained a situation had arisen with people providing a visitor information center which was donated to the state, although not in a contract, they were promised that there would be visitor information signs erected. The signs have never been erected and the people say if the department doesn't get them up they will close the building. The Bed Tax Future's

Committee would like the visitor information centers signed and promote tourism. He submitted a letter from Cliff Snyder, **EXHIBIT(his16a02)**. He noted the reason for not signing the fiscal note was due to the statement "current visitor information signs will be removed and replaced" and from his estimation there aren't any current visitor information signs. There are just little blue question marks.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 3:19}

Mathew Cohn, Administrator of Travel Montana, commented on the construction of the seven visitor information centers. He conveyed he state provided seven information centers with equipment and \$13,000 a year for staffing. The department believed visitor information was a critical component in ensuring both residents and visitors would extend their stay and partake in the joys of Montana. The department was happy to design the signs and are in strong support of **SB 89**. He submitted a letter from Chamber of Commerce and Agriculture, Culbertson, MT in support of **SB 89, EXHIBIT(his16a03)**.

Marv Dye, Department of Transportation, stated the department supported **SB 89**.

Carl Kochman, Chairmen of the Tourism Advisory Council, stated as a business owner he had heard constant concerns and criticisms that the visitor information centers were very hard to find. He urged the committee to support **SB 89**.

Amy Sullivan, Montana Tourism Coalition, said the members of the coalition strongly supported for **SB 89**.

Carl Schweitzer, Bozeman and Kalispell Chambers, stated both chambers supported **SB 89**. He wondered if the bill could be expanded to local chambers of commerce who had good information centers. He didn't know if it was possible to expand to other tourist information centers.

Stuart Doggett, Montana Inn Keepers Association, said the association supports **SB 89**.

Opponents' Testimony: None

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 3:26}

SENATOR HOLDEN asked why the fiscal note states the department is going to tear down signs that already exist. **Marv Dye** commented there is going to be a new design. The state center participants' sign would come down and a new design would go up. **SENATOR HOLDEN** asked why they need a bill to do that and why the department doesn't sign them. **Mr. Dye** stated they were already signed in various capacities. There are locations that are independently operated visitor information, like chambers of commerce, where they simply have a question mark.

SENATOR MOHL commented this falls under tourism and advertising so why doesn't the money come out of the bed tax. **Stuart Doggett** replied the signs and rest areas are the mandate and responsibility of the Department of Transportation.

SENATOR JABS asked how close are the centers to the Montana's borders. **Marv Dye** responded the centers have various distances from the borders.

SENATOR HOLDEN commented to **SENATOR STANG** that on page 1 line 20 it states there is a new visitor center in Broadus.

SENATOR JERGESON asked if the signs are going to be taken down and placed in a warehouse if some of the Chamber of Commerces' who support visitor centers in the interior of Montana could collect the signs up from the Department to put up. **Marv Dye** replied traditionally the signs are recycled if possible. He didn't think the department could participate in the signs beyond salvage.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 3:31}

SENATOR STANG said he didn't believe the visitor information center in Broadus is a state visitor information center because it is not a state-funded center. It is probably a center put on by the local Chamber of Commerce or the local community. If it is a state center it is not on the list approved by the Department of Commerce. The signs would go to the seven state centers that are approved by the Department of Commerce. He stated the money is not in the Bed Tax bill to fund the signs and the bill would have to be reformatted to do so. They are using some Department of Commerce money to design the signs. He believed it is an appropriate use of gas tax money to fund the signs and it is the Highway Departments responsibility to erect them. He hopes the committee will give the bill a favorable recommendation.

HEARING ON SB 133

Sponsor: SENATOR ARNIE MOHL, SD 39, Kalispell

Proponents: Colonel Craig Reap, Montana Highway Patrol
Marv Dye, Department of Transportation
Tom Daubert, Montana Traffic Education Association
Tom Harrison, Montana AAA
Bob Anderson, Montana Sheriffs' and Peace Officers'
Association
Margo Lincoln, Alternative Energy Resources
Organization
Stanley Lund, Reserve, MT
Beda Lovitt, MMA
Joe Mazurek, Attorney General

Opponents: Paul Lambert, Montana Motor Carriers Association
Brian Cavey, Montana Motor Carriers Association
Larry Barton, Watkins & Shepard Trucking, Inc.
Ron Ashabranen, State Farm Insurance

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 3:35}

SENATOR ARNIE MOHL, SD 39, Kalispell, stated SB 133 was requested by the Department, the Governor's Office and the Department of Justice. He went on that SB 149 covers Highway 93 and establishes a speed limit of 65mph and it restricts the speed around the urban areas on the interstate to 65mph that was not on SB 133. He also stated the two bills will be merged together and if a bill is passed by the committee it will be SB 133. There are no signatures on SB 133 but there is a roster and a list of about 35 Senators that have signed on the bill.

Proponents' Testimony:

Colonel Craig Reap, Chief of Highway Patrol, submitted written testimony, **EXHIBIT**(his16a04) and **EXHIBIT**(his16a05).

Marv Dye, representing Governor Racicot and Department of Transportation, stated the bill provides reasonable and enforceable numerical speed limits for vehicle travel on Montana highways. The Governor sees this as a critical issue for passage in this legislative session.

Tom Daubert, Montana Traffic Education Association, supports numerical speed limit bills. The association believes numerical

speed limits will make a great difference in safety for first time drivers and the safety of all others.

Tom Harrison, Montana AAA, stated AAA has a national policy favoring the adoption of numerical speed limits and encouraged the committee to pass SB 133.

Bob Anderson, Montana Sheriffs and Peace Officers Association, said the association supports SB 133 and they have no problems with the differences with SB 149. They support the merging of the two bills.

Margo Lincoln, Alternative Energy Resources Organization, submitted written testimony, **EXHIBIT(his16a06)**.

Stanley Lund, Reserve, MT, said in order to save lives the state needs a speed limit. He believed the use of lights on vehicles affects highway safety and in order to reduce highway deaths the state should require drivers to drive with their lights on.

Joe Mazurek, Attorney General, commented he wanted the committee to look at the differences between SB 133 and SB 149. He urged the committee to look at the truck speed limit especially stopping distances. He stated local governments can reduce speed limits near a school zones to 15mph and this raises the speed to 35. He urged the support for SB 133.

{Tape : 1; Side : B; Approx. Time Counter : 3:48}

Opponents' Testimony:

Paul Lambert, President Montana Motor Carriers Association, entered written testimony, **EXHIBIT(his16a07)**.

Larry Barton, Watkins & Shepard Trucking, Inc., submitted written testimony, **EXHIBIT(his16a08)**.

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 4:00}

SENATOR TOEWS asked if Colonel Reap would entertain a higher speed limit when in the act of passing another vehicle. **Colonel Reap** responded that is a violation of the speed limit but the majority of highway patrol officers allow for that depending on the conditions and within reason. He doesn't feel it is a good idea officially or by statute allow for increase speeds while passing. **SENATOR TOEWS** asked how many people have or can be reasonably assumed to have died of driving over the daytime speed

limits. **Colonel Reap** replied he had no idea. **SENATOR TOEWS** then asked if Colonel Reap was to take a bill in front of a judge and the judge would not listen to the facts, what he would think of a court system like that. **Colonel Reap** responded he would not think very much of that. **SENATOR TOEWS** replied isn't that what we are doing to the public. The state is saying we need a speed limit to save lives and there are no numbers saying it is true. **Colonel Reap** said he couldn't give a number to the question asked but there is a lot of data showing the number of speed related crashes have increased. The number of fatalities have increased since the repeal of the speed limit. He maintained fatalities were on a downward trend in Montana before the repeal.

SENATOR JERGESON asked if Colonel Reap has the ability to get studies that bonify the increase in the amount of damage due to speed or increase in the probability of death per person in an automobile at higher speeds. **Colonel Reap** responded there are studies showing higher speed collisions are more damaging than lower speeds.

SENATOR ROUSH asked if Colonel Reap believed by increasing the speed by 10mph on primary highways and nighttime by 5mph and allowing drivers to drive that speed is reasonable and safe to vehicle operators. **Colonel Reap** replied it does give him some concern. There are a lot of different conditions of highways across the state and one number is difficult to set.

SENATOR STANG asked since the Supreme Court threw out the basic rule, what is the first fine somebody is going to get, reckless or careless. **Colonel Reap** replied of the speed related violations left, careless driving would be the minimum and beyond that is reckless which is a very serious offense to prove.

SENATOR STANG asked how many points did the basic rule carry against the driving record versus the number of points that careless and reckless show against the record. **Colonel Reap** commented basic and careless both carry two points and reckless carries five points. **SENATOR STANG** asked since we don't have basic rule any more if careless points automatically go on the driving record and the insurance company was notified. **Colonel Reap** said that is correct.

SENATOR COLE said Mr. Barton talked about roads not being constructed to take high speeds from trucks on curbs and the dangers. He asked if this is something Marv Dye agrees with. **Marv Dye** stated he thinks the state has a wide variety of roads. There are two lane roads that are 40 feet wide, nice, flat and visibility is forever that trucks are fine on. It is appropriate for some roads and clearly not for others.

SENATOR STANG commented doesn't the provisions in the bill state the Highway Commission can set lower speeds in areas that are dangerous or areas they feel this speed is too high. **Mr. Dye** responded the section that the Senator was referring to say the Commission can go back and adjust speed zones. He referred to the paragraph ending at 309. They have never interpreted the language to be broad enough to allow them to set a speed limit on a section of road. **SENATOR STANG** asked if the department would be willing to work with the committee to get that language. **Mr. Dye** replied the Chairman of the Commission testified he would be willing to accept that responsibility on those roads after a speed study was done.

SENATOR HERTEL commented SB 133 does not refer to any specific road for a lower limit as SB 149 did. He asked what the department concern is, a good venture or not a good venture. **Mr. Dye** responded the department has sections of Highway 93 that they are improving where higher speed would be appropriate and there are sections not suitable to drive over 60mph. But that is the committee's decision to make. **SENATOR HERTEL** asked are there other roads besides Highway 93 that would also qualify. **Mr. Dye** commented yes for lower speeds such as Highway 16 and Highway 191. There are numbers of roads that would qualify for a lower speed limit.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 4:14}

SENATOR MOHL stated the department has the jurisdiction on the roads in question. The Attorney General agrees with the bill on where they can set it. Highway 93 was set from one end of the state to the other and not by sections which creates speed traps. Once the legislators set the speed it is set until they remove it. If the department sets the speed and the condition change, they can remove the speed limit. He said this is the maximum speed limit not the minimum. Nobody has to drive the speed limit.

{Tape : 1; Side : B; Approx. Time Counter : 4:18; Comments : Tape Stopped}

EXECUTIVE ACTION ON SB 71

{Tape : 1; Side : B; Approx. Time Counter : 4:24}

Motion: SEN. STANG moved that SB 71 DO PASS.

Discussion:

SENATOR HOLDEN expressed the thing that concerned him is in the Title on line 4, certain health care professionals. If they start to exempt out different segments, the committee is going to have to think of where this is going. He said in his area there are a lot of contractors and a lot of different professions that cross the boarder every day. The committee could see a flood of special interest groups coming into Montana.

SENATOR STANG commented Senator Holden is not serviced by medical people who come into those areas. He believes this is important to keep health care people in medically scare areas.

SENATOR JABS asked what was the sticker fee, if it was \$3.

SENATOR HOLDEN asked about the fee. **Brenda Nordlund** commented it is not clear that the \$2 fee would apply. The fee refers to those who are paying the taxes and getting the decal that goes on the windshield. Subsection 2 applies only to those who are tax exempt.

SENATOR HOLDEN commented his counties are where this legislation is going to impact. **SENATOR TOEWS** responded the medical thing is appropriate.

{Tape : 2; Side : A; Approx. Time Counter : 4:31}

SENATOR TOEWS continued there will be exclusions because plumbers are under worked.

SENATOR HERTEL asked Senator Holden if they could narrow down to certain health care professions. **SENATOR HOLDEN** replied he will vote for the bill but hopes somebody has a backbone next session.

SENATOR MOHL agreed with Senator Holden. He stated right now he doesn't think they enforce it enough.

Vote: Motion **carried unanimously. 11-0.**

{Tape : 2; Side : A; Approx. Time Counter : 4:33; Comments : Discussion on SB 89}

EXECUTIVE ACTION ON SB 35

Motion: SEN. COLE moved that SB 35 DO PASS.

Motion/Vote: SEN. HOLDEN moved that SB 35 BE TABLED. Motion carried 7-4 with Cole, Jabs, Jergeson and Shea voting no.

EXECUTIVE ACTION ON SB 78

Motion: SEN. ROUSH moved that SB 78 DO PASS.

Discussion:

SENATOR HOLDEN stated he understood the frustration that Senator Stang is facing. People need to be alert when they are on the roads and when they see the sign it means to start slowing down. The impact of going out and making the signs doesn't merit the necessity. When the speed limit is established it should lessen the impact.

SENATOR ROUSH stated he is concerned about the safety of the expanding communities outside the city limits. When new highways are constructed speed zones are posted and reduced to 35mph. After construction the zones have gone up to 55mph or no speed limit at all. It is a safety issue.

SENATOR COLE said there are some problems. Maybe the signs are located in the wrong place. He doesn't feel they need to spend the state special revenue when there are so many needs for it in other places.

SENATOR JERGESON commented the last bill that was tabled would do more for safety at a lower cost than a number of other bills. The pedestrians and locations where people are entering a highway in these locations under certain atmospheric or weather conditions can't see these people coming no matter what the speed limit is established.

SENATOR STANG stated a bill in which Foster carried said the speed limit could not be raised after a speed study. There was no speed study in Senator Stang's town but the 40mph sign was moved 200 feet closer to the intersection and said they made a mistake 15 years ago. That increased the speed limit for another 200 feet. People don't see those signs. He feels this bill will help save lives and it is only if the local communities want the signs.

SENATOR JABS asked if communities were going to request this if then the Highway Department would start to place signs every place. **SENATOR STANG** responded no, it includes allowing the Commission to establish a speed traffic study. The community would have to ask the department before they would put up the signs.

SENATOR HERTEL said this will establish enforcement for communities who have asked or requested the signs. He asked

Senator Stang if he felt the bill will make this happen. **SENATOR STANG** replied he thinks it will make the communities more aware that the opportunity exists again.

SENATOR HOLDEN stated in Senator Stang support of his bill he actually defeats the purpose of it. Senator Stang talked about a 45mph and a 35mph sign and at a four-way stop sign that none of the people observed. He said now Senator Stang wants to stick out another sign telling the people the signs are coming up.

SENATOR MOHL commented he agreed with Senator Holden. If a speed limit is established, speeds will be reduced and drivers will be under control going into these areas. He expressed the fiscal note is wrong because with the speed there is going to be additional signs out there.

Vote: Motion carried 4-7 with Cole, DePratu, Hertel, Holden, Jergeson, Mohl and Toews voting no.

{Tape : 2; Side : A; Approx. Time Counter : 4:51}

EXECUTIVE ACTION ON SB 94

Motion: SEN. COLE moved that SB 94 DO PASS.

Motion: SEN. HERTEL moved that AMENDMENT DO PASS.

Discussion:

Connie Erickson submitted amendment, **EXHIBIT**(his16a09).

SENATOR MOHL asked if the amendment is saying a person can get their license back without taking the exam. **Connie Erickson** said no it says if a Montanan with a Montana driver's license moves to another state and gets a driver's license there then they surrender their Montana driver's license in the other state. Then the other state notifies Montana. The way the bill currently reads is that once the Department of Justice is notified by the other state that the person has surrendered their driver's license, then Montana would cancel the driver's license. The amendment says Montana will not cancel the driver's license. It will merely stamp the record as inactive. If the person should return to Montana at a later time, to reside, and wants to reactivate their Montana driver's license they may do so within the time period that the license will still be active if they had retained it.

SENATOR JABS asked if the person has to surrender their license in order to get on in other state or can someone have two licenses. **Connie Erickson** replied no they have to surrender the license.

SENATOR DEPRATU asked when a license is reactivate the license would there be a provision that would cause the person to surrender the out of state license. **Connie Erickson** said yes they could only hold one license.

Vote: Motion that **AMENDMENT DO PASS** carried unanimously.

Motion: **SEN. COLE** moved that **SB 94 DO PASS AS AMENDED.**

Discussion:

SENATOR HOLDEN asked if there was an interim legislative committee that met to design the changes of this piece of legislation. **Brenda Nordlund** responded no it is a Department bill. **SENATOR HOLDEN** asked why the department would want to go in and make all the changes. **Brenda Nordlund** said the impetus behind the changes deal with litigation that is driven by the Americans with Disabilities Act (ADA). Most of the changes dealing with physical or natural disability are intended to clarify the law as to when they can test someone, either the knowledge or skills test, how they are going to test them and that the department has the authority to set those standards and determine what the examination criteria will be. The other constellation of changes has to do with changes with strengthening their rule making authority from the blanket. Do whatever it is necessary to implement which is not the standard they use anymore.

Vote: Motion **carried unanimously.**

ADJOURNMENT

Adjournment: 4:55 P.M.

SEN. ARNIE MOHL, Chairman

ADRIENNE PILLATZKE, Secretary

AM/AP

EXHIBIT (his16aad)